



Reprinted  
January 29, 2008

## SENATE BILL No. 312

DIGEST OF SB 312 (Updated January 28, 2008 6:43 pm - DI 110)

**Citations Affected:** IC 3-5; IC 3-10; IC 3-11; IC 36-1; IC 36-2; IC 36-9; noncode.

**Synopsis:** County executives and county councils. Requires a county (other than Marion County) to place a public question on the ballot at the 2010 general election concerning whether the county should have: (1) a one person county executive; and (2) a nine member county council consisting of four members elected from districts and five members elected at-large to serve as the county legislative body as well as the county fiscal body. Provides that if the county voters vote in favor of the public question: (1) the initial county chief executive officer; and (2) any county council members required to be elected to satisfy the requirements of the statute; are elected at the November 2012 general election. Provides that if the public question is disapproved at the 2010 general election, the public question may be placed on the ballot at a future general election if a petition signed by at least 5% of the voters of the county is filed with the circuit court clerk.

**Effective:** July 1, 2008.

**Boots, Broden, Wyss,  
Young R Michael, Delph**

January 10, 2008, read first time and referred to Committee on Local Government and Elections.

January 24, 2008, amended, reported favorably — Do Pass.

January 28, 2008, read second time, amended, ordered engrossed.

SB 312—LS 6845/DI 73+



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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

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## SENATE BILL No. 312

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 3-5-2-22 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2008]: Sec. 22. **(a)** "Executive" means:  
3 (1) **except as provided in subsection (b), the** board of county  
4 commissioners, for a county not having a consolidated city;  
5 (2) **the** mayor of the consolidated city, for a county having a  
6 consolidated city;  
7 (3) **the** mayor, for a city;  
8 (4) **the** president of the town council, for a town; or  
9 (5) **a** trustee, for a township.  
10 **(b) In the case of a county subject to IC 36-2-2.5, "executive"**  
11 **means the chief executive officer elected under IC 3-10-2-13.**  
12 SECTION 2. IC 3-10-1-19, AS AMENDED BY P.L.164-2006,  
13 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2008]: Sec. 19. (a) The ballot for a primary election shall be  
15 printed in substantially the following form for all the offices for which  
16 candidates have qualified under IC 3-8:  
17 OFFICIAL PRIMARY BALLOT

SB 312—LS 6845/DI 73+



1 \_\_\_\_\_ Party

2 For paper ballots, print: To vote for a person, make a voting mark  
3 (X or ✓) on or in the box before the person's name in the proper  
4 column. For optical scan ballots, print: To vote for a person, darken or  
5 shade in the circle, oval, or square (or draw a line to connect the arrow)  
6 that precedes the person's name in the proper column. For optical scan  
7 ballots that do not contain a candidate's name, print: To vote for a  
8 person, darken or shade in the oval that precedes the number assigned  
9 to the person's name in the proper column. For electronic voting  
10 systems, print: To vote for a person, touch the screen (or press the  
11 button) in the location indicated.

12 Vote for one (1) only

13 Representative in Congress

14 ☐ (1) AB \_\_\_\_\_

15 ☐ (2) CD \_\_\_\_\_

16 ☐ (3) EF \_\_\_\_\_

17 ☐ (4) GH \_\_\_\_\_

18 (b) The offices with candidates for nomination shall be placed on  
19 the primary election ballot in the following order:

20 (1) Federal and state offices:

21 (A) President of the United States.

22 (B) United States Senator.

23 (C) Governor.

24 (D) United States Representative.

25 (2) Legislative offices:

26 (A) State senator.

27 (B) State representative.

28 (3) Circuit offices and county judicial offices:

29 (A) Judge of the circuit court, and unless otherwise specified  
30 under IC 33, with each division separate if there is more than  
31 one (1) judge of the circuit court.

32 (B) Judge of the superior court, and unless otherwise specified  
33 under IC 33, with each division separate if there is more than  
34 one (1) judge of the superior court.

35 (C) Judge of the probate court.

36 (D) Judge of the county court, with each division separate, as  
37 required by IC 33-30-3-3.

38 (E) Prosecuting attorney.

39 (F) Circuit court clerk.

40 (4) County offices:

41 (A) County auditor.

42 (B) County recorder.

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- 1 (C) County treasurer.  
 2 (D) County sheriff.  
 3 (E) County coroner.  
 4 (F) County surveyor.  
 5 (G) County assessor.  
 6 (H) County commissioner.  
 7 **(I) County chief executive officer, in the case of a county**  
 8 **subject to IC 36-2-2.5.**  
 9 ~~(H)~~ **(J)** County council member.  
 10 (5) Township offices:  
 11 (A) Township assessor.  
 12 (B) Township trustee.  
 13 (C) Township board member.  
 14 (D) Judge of the small claims court.  
 15 (E) Constable of the small claims court.  
 16 (6) City offices:  
 17 (A) Mayor.  
 18 (B) Clerk or clerk-treasurer.  
 19 (C) Judge of the city court.  
 20 (D) City-county council member or common council member.  
 21 (7) Town offices:  
 22 (A) Clerk-treasurer.  
 23 (B) Judge of the town court.  
 24 (C) Town council member.  
 25 (c) The political party offices with candidates for election shall be  
 26 placed on the primary election ballot in the following order after the  
 27 offices described in subsection (b):  
 28 (1) Precinct committeeman.  
 29 (2) State convention delegate.  
 30 (d) The following offices and public questions shall be placed on the  
 31 primary election ballot in the following order after the offices described  
 32 in subsection (c):  
 33 (1) School board offices to be elected at the primary election.  
 34 (2) Other local offices to be elected at the primary election.  
 35 (3) Local public questions.  
 36 (e) The offices and public questions described in subsection (d)  
 37 shall be placed:  
 38 (1) in a separate column on the ballot if voting is by paper ballot;  
 39 (2) after the offices described in subsection (c) in the form  
 40 specified in IC 3-11-13-11 if voting is by ballot card; or  
 41 (3) either:  
 42 (A) on a separate screen for each office or public question; or

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1 (B) after the offices described in subsection (c) in the form  
 2 specified in IC 3-11-14-3.5;  
 3 if voting is by an electronic voting system.

4 (f) A public question shall be placed on the primary election ballot  
 5 in the following form:

6 (The explanatory text for the public question,  
 7 if required by law.)  
 8 "Shall (insert public question)?"

9 ☐ YES  
 10 ☐ NO

11 SECTION 3. IC 3-10-2-13 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. The following  
 13 public officials shall be elected at the general election before their  
 14 terms of office expire and every four (4) years thereafter:

- 15 (1) Clerk of the circuit court.
- 16 (2) County auditor.
- 17 (3) County recorder.
- 18 (4) County treasurer.
- 19 (5) County sheriff.
- 20 (6) County coroner.
- 21 (7) County surveyor.
- 22 (8) County assessor.
- 23 (9) County commissioner.
- 24 **(10) County chief executive officer, in the case of a county**  
 25 **subject to IC 36-2-2.5.**
- 26 ~~(10)~~ **(11)** County council member.
- 27 ~~(11)~~ **(12)** Township trustee.
- 28 ~~(12)~~ **(13)** Township board member.
- 29 ~~(13)~~ **(14)** Township assessor.
- 30 ~~(14)~~ **(15)** Judge of a small claims court.
- 31 ~~(15)~~ **(16)** Constable of a small claims court.

32 SECTION 4. IC 3-11-2-12, AS AMENDED BY P.L.2-2005,  
 33 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 JULY 1, 2008]: Sec. 12. The following offices shall be placed on the  
 35 general election ballot in the following order:

- 36 (1) Federal and state offices:
  - 37 (A) President and Vice President of the United States.
  - 38 (B) United States Senator.
  - 39 (C) Governor and lieutenant governor.
  - 40 (D) Secretary of state.
  - 41 (E) Auditor of state.
  - 42 (F) Treasurer of state.



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- 1 (G) Attorney general.
- 2 (H) Superintendent of public instruction.
- 3 (I) United States Representative.
- 4 (2) Legislative offices:
- 5 (A) State senator.
- 6 (B) State representative.
- 7 (3) Circuit offices and county judicial offices:
- 8 (A) Judge of the circuit court, and unless otherwise specified
- 9 under IC 33, with each division separate if there is more than
- 10 one (1) judge of the circuit court.
- 11 (B) Judge of the superior court, and unless otherwise specified
- 12 under IC 33, with each division separate if there is more than
- 13 one (1) judge of the superior court.
- 14 (C) Judge of the probate court.
- 15 (D) Judge of the county court, with each division separate, as
- 16 required by IC 33-30-3-3.
- 17 (E) Prosecuting attorney.
- 18 (F) Clerk of the circuit court.
- 19 (4) County offices:
- 20 (A) County auditor.
- 21 (B) County recorder.
- 22 (C) County treasurer.
- 23 (D) County sheriff.
- 24 (E) County coroner.
- 25 (F) County surveyor.
- 26 (G) County assessor.
- 27 (H) County commissioner.
- 28 **(I) County chief executive officer, in the case of a county**
- 29 **subject to IC 36-2-2.5.**
- 30 **⌘ (J) County council member.**
- 31 (5) Township offices:
- 32 (A) Township assessor.
- 33 (B) Township trustee.
- 34 (C) Township board member.
- 35 (D) Judge of the small claims court.
- 36 (E) Constable of the small claims court.
- 37 (6) City offices:
- 38 (A) Mayor.
- 39 (B) Clerk or clerk-treasurer.
- 40 (C) Judge of the city court.
- 41 (D) City-county council member or common council member.
- 42 (7) Town offices:

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- (A) Clerk-treasurer.
- (B) Judge of the town court.
- (C) Town council member.

SECTION 5. IC 36-1-2-5 IS AMENDED TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2008]: Sec. 5. (a) "Executive" means:

- (1) **except as provided in subsection (b), the** board of commissioners, for a county not having a consolidated city;
- (2) **the** mayor of the consolidated city, for a county having a consolidated city;
- (3) **the** mayor, for a city;
- (4) **the** president of the town council, for a town;
- (5) **a** trustee, for a township;
- (6) **the** superintendent, for a school corporation; or
- (7) **the** chief executive officer, for any other political subdivision.

(b) "Executive", in the case of a county subject to IC 36-2-2.5, means the chief executive officer elected under IC 3-10-2-13 for a county not having a consolidated city.

SECTION 6. IC 36-1-2-9, AS AMENDED BY P.L.186-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. "Legislative body" means: ~~the~~

- (1) **the** board of county commissioners, for a county not subject to IC 36-2-3.5 or IC 36-3-1;
- (2) **the** county council, for a county subject to IC 36-2-3.5 or IC 36-2-3.7;
- (3) **the** city-county council, for a consolidated city or county having a consolidated city;
- (4) **the** common council, for a city other than a consolidated city;
- (5) **the** town council, for a town;
- (6) **the** township board, for a township;
- (7) **the** governing body of any other political subdivision that has a governing body; or
- (8) **the** chief executive officer of any other political subdivision that does not have a governing body.

SECTION 7. IC 36-2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies to all counties ~~not~~ **except the following**:

- (1) **A county** having a consolidated city.
- (2) **A county subject to IC 36-2-2.5.**

SECTION 8. IC 36-2-2.4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

**Chapter 2.4. Local Public Question on County Government**



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1       Sec. 1. (a) This chapter does not apply to a county having a  
2 consolidated city.

3       (b) This subsection applies to a county that is not subject to  
4 IC 36-2-3.5. The county election board in a county shall place the  
5 following question on the ballot in the county at the 2010 general  
6 election:

7       "Shall \_\_\_\_\_ (insert the name of the county)  
8 County adopt Indiana law so that:

9       (1) the county executive consists of one (1) person elected by  
10 the voters of the county instead of three (3) persons elected by  
11 the voters of the county;

12       (2) the county council consists of nine (9) persons, of whom  
13 four (4) persons are elected by voters who reside in a district,  
14 five (5) members elected by voters of the county, instead of  
15 seven (7) persons, four (4) of whom are elected by voters who  
16 reside in a district, three (3) of whom are elected by voters of  
17 the county?; and

18       (3) the county council serves as the county legislative body  
19 and the county fiscal body?."

20       (c) This subsection applies to a county having a population of  
21 more than two hundred thousand (200,000) but less than three  
22 hundred thousand (300,000). The county election board in a county  
23 shall place the following question on the ballot in the county at the  
24 2010 general election:

25       "Shall \_\_\_\_\_ (insert the name of the county)  
26 County adopt Indiana law so that:

27       (1) the county executive consists of one (1) person elected by  
28 the voters of the county instead of three (3) persons elected by  
29 the voters of the county; and

30       (2) the county council consists of nine (9) persons, of whom  
31 four (4) persons are elected by voters who reside in a district,  
32 five (5) members elected by voters of the county, instead of  
33 nine (9) persons, nine (9) of whom are elected by voters who  
34 reside in a district?."

35       (d) This subsection applies to a county having a population of  
36 more than four hundred thousand (400,000) but less than seven  
37 hundred thousand (700,000). The county election board in a county  
38 shall place the following question on the ballot in the county at the  
39 2010 general election:

40       "Shall \_\_\_\_\_ (insert the name of the county) County adopt  
41 Indiana law so that:

42       (1) the county executive consists of one (1) person elected by

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the voters of the county instead of three (3) persons elected by the voters of the county; and

(2) the county council consists of nine (9) persons, of whom four (4) persons are elected by voters who reside in a district, five (5) members elected by voters of the county, instead of seven (7) persons, seven (7) of whom are elected by voters who reside in a district?."

(e) A public question under this section must be certified in accordance with IC 3-10-9-3 and shall be placed on the ballot in accordance with IC 3-10-9.

(f) The circuit court clerk of a county holding an election under this section shall certify the results determined under IC 3-12-4-9 to each of the following:

- (1) The secretary of state.
- (2) The state board of accounts.
- (3) The department of local government finance.

Sec. 2. If the voters of a county approve a public question under section 1 of this chapter, the following apply:

- (1) The county executive consists of one (1) individual.
- (2) IC 36-2-2.5 applies in the county instead of IC 36-2-2.
- (3) The county may not subsequently be governed by IC 36-2-2.
- (4) The county executive shall be elected at the 2012 general election.
- (5) The term of office of each member of the county executive elected under IC 36-2-2 expires at the end of the day on December 31, 2012.
- (6) The county council consists of nine (9) members, four of whom are elected from single member districts, five (5) of whom are elected at-large.
- (7) The county is subject to IC 36-2-3.7.
- (8) This subdivision applies only to a county described in section 1(c) or 1(d) of this chapter. The term of office of each member of the county council expires at the end of the day on December 31, 2012. The nine (9) members of the county council shall be elected at the 2012 general election. The initial terms of the members shall be as follows:
  - (A) Two (2) members elected from single-member districts and two (2) members elected at-large shall serve two (2) year terms beginning January 1, 2013, and expiring at the end of the day on December 31, 2014. The successors of the members shall be elected at the 2014 general election and

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shall serve four (4) year terms.

(B) Two (2) members elected from single-member districts and three (3) members elected at-large shall serve four (4) year terms beginning January 1, 2013, and expiring at the end of the day on December 31, 2016. The successors of the members shall be elected at the 2016 general election and shall serve four (4) year terms.

(9) This subdivision applies only to a county described in section 1(b) of this chapter. The eighth and ninth members of the council shall be elected at the 2012 general election for four (4) year terms.

**Sec. 3. (a) If the voters of a county disapprove a public question, the voters of the county may file a written petition with the circuit court clerk of the county requesting that a local public question applicable to the county under section 1 of this chapter, be placed on the ballot for the next general election. The petition must:**

- (1) be signed by at least five percent (5%) of the voters of the county, as determined by the vote cast in the county for secretary of state at the most recent general election;
- (2) state the public question that applies to the county under section 1 of this chapter; and
- (3) be substantially in the form prescribed by the department of local government finance.

The circuit court clerk shall certify the petition to the county council of the county.

(b) If the requirements in subsection (a) are satisfied, the county election board shall place the local public question on the ballot in the county during the next general election.

(c) If the voters of the county approve the public question, the following apply:

- (1) The county executive consists of one (1) individual.
- (2) IC 36-2-2.5 applies in the county instead of IC 36-2-2.
- (3) The county may not subsequently be governed by IC 36-2-2.
- (4) The county executive shall be elected at the next general election.
- (5) The term of office of each member of the county executive elected under IC 36-2-2 expires at the end of the day on December 31 following the next general election.
- (6) The county council consists of nine (9) members, four of whom are elected from single member districts, five (5) of whom are elected at-large.

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(7) The county is subject to IC 36-2-3.7.

(8) This subdivision applies only to a county described in section 1(c) or 1(d) of this chapter. The term of office of each member of the county council expires at the end of the day on December 31 following the next general election. The nine (9) members of the county council shall be elected at the next general election. The initial terms of the members shall be as follows:

(A) Two (2) members elected from single member districts and two (2) members elected at-large shall serve two (2) year terms beginning the January 1 following the next general election and expiring at the end of the day on December 31. The successors of the members shall be elected at a general election and shall serve four (4) year terms.

(B) Two (2) members elected from single-member districts and three (3) members elected at-large shall serve four (4) year terms beginning the January 1 following the next general election and expiring at the end of the day on December 31. The successors of the members shall be elected at a general election and shall serve four (4) year terms.

(9) This subdivision applies only to a county described in section 1(b) of this chapter. The eighth and ninth members of the council shall be elected at the next general election for four (4) year terms.

SECTION 9. IC 36-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

**Chapter 2.5. County Chief Executive Officer**

**Sec. 1. (a)** This chapter applies to a county if the voters of the county approve a public question under IC 36-2-2.4.

**(b)** This chapter does not apply to a county having a consolidated city.

**Sec. 2.** As used in this chapter, "chief executive officer" means the chief executive officer elected under IC 3-10-2-13 every four (4) years.

**Sec. 3. (a)** All powers and duties of the county that are executive or administrative in nature shall be exercised or performed by the chief executive officer, except to the extent that these powers and duties are expressly assigned by law to another elected or appointed officer.

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(b) Any reference:

- (1) in the Indiana Code;
- (2) in the Indiana Administrative Code; or
- (3) in an ordinance or resolution;

to the board of commissioners as it pertains to a county governed by this chapter, shall be considered a reference to the chief executive officer of the county. Any reference in the Indiana Code related to the executive powers and duties of the board of county commissioners shall, for purposes of a county subject to this chapter, be considered a reference to the chief executive officer of the county.

(c) The county council has the legislative powers and duties of the county as provided in IC 36-2-3.7.

**Sec. 4. The chief executive officer shall do the following:**

- (1) Report on the condition of the county before March 1 of each year to the county legislative body and to the residents of the county.
- (2) Recommend before March 1 of each year to the county legislative body any action or program the chief executive officer considers necessary for the improvement of the county and the welfare of county residents.
- (3) Submit to the county legislative body an annual budget in accordance with IC 36-2-5.
- (4) Establish the procedures to be followed by all county departments, offices, and agencies under the chief executive officer's jurisdiction, to the extent these procedures are not expressly assigned by law to another elected or appointed officer.
- (5) Administer all statutes, ordinances, and regulations applicable to the county, to the extent the administration of these matters is not expressly assigned by law to another elected or appointed officer.
- (6) Supervise the care and custody of all county property.
- (7) Supervise the collection of revenues and control all disbursements and expenditures, and prepare a complete account of all expenditures, to the extent these matters are not expressly assigned by law to another elected or appointed officer.
- (8) Review, analyze, and forecast trends for county services and finances and programs of all county governmental entities, and report and recommend on these to the county legislative body by March 15 of each year.

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(9) Negotiate contracts for the county.

(10) Make recommendations concerning the nature and location of county improvements, and provide for the execution of those improvements.

(11) Supervise county administrative offices, except for the offices of elected officers.

(12) Approve or veto ordinances passed by the county legislative body in the manner prescribed by section 7 of this chapter.

(13) Perform other duties and functions that are assigned to the chief executive officer by statute or ordinance.

Sec. 5. The chief executive officer may do any of the following:

(1) Order any department, office, or agency under the chief executive officer's jurisdiction to undertake any task for another department, office, or agency under the chief executive officer's jurisdiction on a temporary basis, if necessary for the proper and efficient administration of county government.

(2) Establish and administer centralized budgeting, centralized personnel selection, and centralized purchasing.

Sec. 6. Notwithstanding IC 36-2-2-1(b), the chief executive officer shall approve or veto ordinances passed by the county legislative body in the manner prescribed by IC 36-2-4-8.

Sec. 7. Notwithstanding any other law, if a statute requires a county executive to take an executive action by ordinance or resolution, a chief executive officer shall instead take the action by issuing an executive order.

SECTION 10. IC 36-2-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. ~~(a) The seven (7) member~~ county council elected under this chapter is the county fiscal body **and the county legislative body as provided in IC 36-2-3.7.** The fiscal body shall act in the name of "The \_\_\_\_\_ County Council".

~~(b) Notwithstanding subsection (a), in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the county council has nine (9) members.~~

SECTION 11. IC 36-2-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The ~~fiscal body~~ **county council** shall be elected under IC 3-10-2-13. Except in a county having only single member districts, members elected from districts and at large members, respectively, ~~are to~~ **shall** be elected in alternate, succeeding general elections under ~~section 4~~ **of** this chapter. In a

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1 county having only single member districts, the terms of the members  
2 are staggered as was provided by law before September 1, 1980.

3 (b) The term of office of a member of the ~~fiscal body county~~  
4 **council** is four (4) years, beginning January 1 after election and  
5 continuing until a successor is elected and qualified.

6 SECTION 12. IC 36-2-3-4, AS AMENDED BY P.L.230-2005,  
7 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2008]: Sec. 4. (a) This subsection does not apply to a county  
9 having a population of:

10 (1) more than four hundred thousand (400,000) but less than  
11 seven hundred thousand (700,000); or

12 (2) more than two hundred thousand (200,000) but less than three  
13 hundred thousand (300,000).

14 **This subsection does not apply to a county that approves a public**  
15 **question under IC 36-2-2.4.** The county executive shall, by ordinance,  
16 divide the county into four (4) contiguous, single-member districts that  
17 comply with subsection (d). If necessary, the county auditor shall call  
18 a special meeting of the executive to establish or revise districts. One  
19 (1) member of the ~~fiscal body county~~ **council** shall be elected by the  
20 voters of each of the four (4) districts. Three (3) at-large members of  
21 the fiscal body shall be elected by the voters of the whole county.

22 (b) This subsection applies to a county having a population of more  
23 than four hundred thousand (400,000) but less than seven hundred  
24 thousand (700,000) **that does not approve a public question under**  
25 **IC 36-2-2.4.** The county redistricting commission established under  
26 IC 36-2-2-4 shall divide the county into seven (7) single-member  
27 districts that comply with subsection (d). One (1) member of the ~~fiscal~~  
28 ~~body county~~ **council** shall be elected by the voters of each of these  
29 seven (7) single-member districts.

30 (c) This subsection applies to a county having a population of more  
31 than two hundred thousand (200,000) but less than three hundred  
32 thousand (300,000) **that does not approve a public question under**  
33 **IC 36-2-2.4.** The ~~fiscal body county~~ **council** shall divide the county  
34 into nine (9) single-member districts that comply with subsection (d).  
35 Three (3) of these districts must be contained within each of the three  
36 (3) districts established under IC 36-2-2-4(c). One (1) member of the  
37 ~~fiscal body county~~ **council** shall be elected by the voters of each of  
38 these nine (9) single-member districts.

39 (d) Single-member districts established under subsection (a), (b), or  
40 (c) must:

41 (1) be compact, subject only to natural boundary lines (such as  
42 railroads, major highways, rivers, creeks, parks, and major

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1 industrial complexes);

2 (2) not cross precinct boundary lines;

3 (3) contain, as nearly as possible, equal population; and

4 (4) include whole townships, except when a division is clearly  
5 necessary to accomplish redistricting under this section.

6 (e) A division under subsection (a), (b), or (c) shall be made:

7 (1) during the first year after a year in which a federal decennial  
8 census is conducted; and

9 (2) when the county executive adopts an order declaring a county  
10 boundary to be changed under IC 36-2-1-2.

11 (f) A division under subsection (a), (b), or (c) may be made in any  
12 odd-numbered year not described in subsection (e).

13 SECTION 13. IC 36-2-3-4.6 IS ADDED TO THE INDIANA CODE  
14 AS NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
15 1, 2008]: **Sec. 4.6. (a) If a local public question is approved by the**  
16 **voters of a county under IC 36-2-2.4:**

17 (1) this section applies to the county; and

18 (2) section 4 of this chapter does not apply to the county.

19 (b) The county shall be divided into four (4) single-member  
20 districts that comply with subsection (c) by the following:

21 (1) The county council. If necessary, the county auditor shall  
22 call a special meeting of the county council to establish or  
23 revise districts.

24 (2) The county redistricting commission established under  
25 IC 36-2-2-4 in the case of a county having a population of  
26 more than four hundred thousand (400,000) but less than  
27 seven hundred thousand (700,000).

28 One (1) member of the county council shall be elected by the voters  
29 of each of the four (4) districts. Five (5) at-large members of the  
30 county council shall be elected by the voters of the whole county.

31 (c) Single-member districts established under subsection (b)  
32 must:

33 (1) be compact, subject only to natural boundary lines (such  
34 as railroads, major highways, rivers, creeks, parks, and major  
35 industrial complexes);

36 (2) not cross precinct boundary lines;

37 (3) contain, as nearly as possible, equal population; and

38 (4) include whole townships, except when a division is clearly  
39 necessary to accomplish redistricting under this section.

40 (d) A division under subsection (b) shall be made:

41 (1) during the first year after a year in which a federal  
42 decennial census is conducted; and

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(2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(e) A division under subsection (b) may be made in any odd-numbered year not described in subsection (d).

SECTION 14. IC 36-2-3-4.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.7. (a) Whenever the county executive or the county fiscal body divides the county into districts under section 4 of this chapter, the county executive or the county ~~fiscal body~~ **council** shall adopt an ordinance.

(b) The county executive or the county ~~fiscal body~~ **council** shall file a copy of an ordinance adopted under subsection (a) with the circuit court clerk.

SECTION 15. IC 36-2-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) To be eligible to serve as a member of the ~~fiscal body~~, **county council**, a person must meet the qualifications prescribed by IC 3-8-1-22.

(b) A member of the ~~fiscal body~~ **county council** must reside within:

(1) the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and

(2) the district from which the member was elected, if applicable.

(c) A member who fails to comply with subsection (b) forfeits the office.

SECTION 16. IC 36-2-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) At its regular meeting required by section 7(b)(1) of this chapter, the ~~fiscal body~~ **county council** shall elect a president and president pro tempore from its members.

(b) The county auditor is the clerk of the ~~fiscal body~~ **county council** and shall:

(1) preserve the ~~fiscal body's~~ **county council's** records in ~~his the~~ **county auditor's** office;

(2) keep an accurate record of the ~~fiscal body's~~ **county council's** proceedings;

(3) record the ayes and nays on each vote appropriating money or fixing the rate of a tax levy; and

(4) record the ayes and nays on other votes when requested to do so by two (2) or more members.

(c) The county sheriff or a county police officer shall attend the meetings of the ~~fiscal body~~, **county council**, if requested by the ~~fiscal body~~, **county council**, and shall execute its orders.

(d) The ~~fiscal body~~ **county council** may employ legal and administrative personnel necessary to assist and advise it in the

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performance of its functions and duties.

SECTION 17. IC 36-2-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The ~~fiscal body~~ **county council** shall hold its meetings in the county seat, in the county auditor's office, or in another location provided by the county executive and approved by the ~~fiscal body~~ **county council**.

(b) The ~~fiscal body~~ **county council**:

(1) shall hold a regular meeting in January after its election, for the purpose of organization and other business;

(2) shall hold a regular meeting annually, as prescribed by IC 6-1.1-17, to adopt the county's annual budget and tax rate;

(3) may hold a special meeting under subsection (c) or (d); and

(4) in the case of a county subject to IC 36-2-3.5 **before January 1, 2011**, shall hold meetings at a regularly scheduled time each month that does not conflict with the meetings of the county executive.

(c) A special meeting of the ~~fiscal body~~ **county council** may be called:

(1) by the county auditor or the president of the ~~fiscal body~~ **county council**; or

(2) by a majority of the members of the ~~fiscal body~~ **county council**.

At least forty-eight (48) hours before the meeting, the auditor, president, or members calling the meeting shall give written notice of the meeting to each member of the ~~fiscal body~~ **county council** and publish, at least one (1) day before the meeting, the notice in accordance with IC 5-3-1-4. This subsection does not apply to a meeting called to deal with an emergency under IC 5-14-1.5-5.

(d) If a court orders the county auditor to make an expenditure of county money for a purpose for which an appropriation has not been made, the auditor shall immediately call an emergency meeting of the ~~fiscal body~~ **county council** to discuss the matter. Notwithstanding subsection (c), the meeting must be held within three (3) working days of the receipt of the order by the auditor, and notice of the meeting day, time, and ~~places~~ **place** is sufficient if:

(1) given by telephone to the members of the ~~fiscal body~~ **county council**; and

(2) given according to IC 5-14-1.5.

SECTION 18. IC 36-2-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. A member of the ~~fiscal body~~ **county council** who purchases a bond, order, claim, or demand against the county for less than its face value shall forfeit it to

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the county and may not enforce it by legal action.

SECTION 19. IC 36-2-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. The ~~fiscal body~~ **county council** may:

- (1) expel any member for violation of an official duty;
- (2) declare the seat of any member vacant if ~~he~~ **the member** is unable or fails to perform the duties of ~~his~~ **the** office; and
- (3) adopt its own rules to govern proceedings under this section, but a two-thirds (2/3) vote is required to expel a member or vacate ~~his~~ **the member's** seat.

SECTION 20. IC 36-2-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) The ~~fiscal body~~ **county council** may employ and fix the compensation of an attorney to represent and advise the ~~fiscal body~~ **county council**.

(b) For the purposes of Section 9, Article 2 of the Constitution of the State of Indiana, employment by a county ~~fiscal body~~ **county council** as an attorney does not constitute a lucrative office.

SECTION 21. IC 36-2-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a) Except as provided in subsection (b), this chapter applies to:**

- (1) a county having a population of:
  - (A) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
  - (B) more than two hundred thousand (200,000) but less than three hundred thousand (300,000); and
- (2) any other county not having a consolidated city, if both the county executive and the county fiscal body adopt identical ordinances providing for the county to be governed by this chapter beginning on a specified effective date.

**(b) This chapter does not apply to a county subject to IC 36-2-2.5.**

SECTION 22. IC 36-2-3.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

**Chapter 3.7. County Council as the County Legislative Body**

**Sec. 1. (a) This chapter applies to a county if the voters of the county approve a public question under IC 36-2-2.4.**

**(b) This chapter does not apply to a county having a consolidated city.**

**Sec. 2. As used in this chapter, "chief executive officer" means the chief executive officer of a county elected under IC 3-10-2-13 in a county subject to IC 36-2-2.5.**

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1        **Sec. 3. The executive and legislative powers of a county are**  
 2        **divided between separate branches of county government. A power**  
 3        **belonging to one (1) branch of county government may not be**  
 4        **exercised by the other branch of county government.**

5        **Sec. 4. (a) The county council elected under IC 36-2-3 is the**  
 6        **county legislative body as well as the county fiscal body.**

7        **(b) The chief executive officer is the county executive of the**  
 8        **county. The chief executive officer of the county has the executive**  
 9        **and administrative powers and duties of the county as provided in**  
 10       **IC 36-2-2.5.**

11       **Sec. 5. (a) All powers and duties of the county that are legislative**  
 12       **in nature shall be exercised or performed by the county council**  
 13       **functioning as the county legislative body.**

14       **(b) The county council has the same legislative powers and**  
 15       **duties that the county board of commissioners in the county had**  
 16       **before the county board of commissioners was abolished.**

17       **Sec. 6. The county council may do any of the following:**

18       **(1) Establish committees that are necessary to carry out the**  
 19       **county council's functions.**

20       **(2) Employ legal and administrative personnel necessary to**  
 21       **carry out the county council's functions.**

22       **(3) Pass all ordinances, orders, resolutions, and motions for**  
 23       **the government of the county, in the manner prescribed by**  
 24       **IC 36-2-4.**

25       **(4) Receive gifts, bequests, and grants from public or private**  
 26       **sources.**

27       **(5) Conduct investigations into the conduct of county business**  
 28       **for the purpose of correcting deficiencies and ensuring**  
 29       **adherence to law and county ordinances and policies.**

30       **(6) Establish, by ordinance, new county departments,**  
 31       **divisions, or agencies whenever necessary to promote efficient**  
 32       **county government.**

33       **SECTION 23. IC 36-2-4-8 IS AMENDED TO READ AS**  
 34       **FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) An ordinance,**  
 35       **order, or resolution is considered adopted when it is signed by the**  
 36       **presiding officer. If required, an adopted ordinance, order, or resolution**  
 37       **must be promulgated or published according to statute before it takes**  
 38       **effect.**

39       **(b) An ordinance prescribing a penalty or forfeiture for a violation**  
 40       **must, before it takes effect, be published once each week for two (2)**  
 41       **consecutive weeks, according to IC 5-3-1. However, if such an**  
 42       **ordinance is adopted by the legislative body of a county subject to**

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IC 36-2-3.5 or IC 36-2-3.7 and there is an urgent necessity requiring its immediate effectiveness, it need not be published if:

- (1) the county executive proclaims the urgent necessity; and
- (2) copies of the ordinance are posted in three (3) public places in each of the districts of the county before it takes effect.

(c) In addition to the other requirements of this section, an ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 or IC 36-2-3.7 is considered adopted only if it is:

- (1) approved by signature of a majority of the county executive;
- (2) neither approved nor vetoed by a majority of the executive, within ten (10) days after passage by the legislative body; or
- (3) passed over the veto of the executive by a two-thirds (2/3) vote of the legislative body, within sixty (60) days after presentation of the ordinance or resolution to the executive.

(d) After an ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 or IC 36-2-3.7 has been signed by the presiding officer, the county auditor shall present it to the county executive, and record the time of the presentation. Within ten (10) days after an ordinance or resolution is presented to it, the executive shall:

- (1) approve the ordinance or resolution, by signature of a majority of the executive, and send the legislative body a message announcing its approval; or
- (2) veto the ordinance or resolution, by returning it to the legislative body with a message announcing its veto and stating its reasons for the veto.

(e) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(f) An ordinance increasing a building permit fee on new development must:

- (1) be published:
  - (A) one (1) time in accordance with IC 5-3-1; and
  - (B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and
- (2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

SECTION 24. IC 36-9-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. For purposes of this chapter, the following are considered the governing bodies of their

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- 1       respective eligible entities:
- 2           (1) Board of commissioners, for a county not subject to
- 3           IC 36-2-3.5 or IC 36-3-1.
- 4           (2) County council, for a county subject to IC 36-2-3.5 **or**
- 5           **IC 36-2-3.7.**
- 6           (3) City-county council, for a consolidated city or county having
- 7           a consolidated city.
- 8           (4) Common council, for a city other than a consolidated city.
- 9           (5) Town council, for a town.
- 10          (6) Trustee and township board, for a civil or school township.
- 11          (7) Board of school trustees, board of school commissioners, or
- 12          school board, for a school corporation.
- 13          (8) Board of trustees, for a health and hospital corporation.
- 14          SECTION 25. [EFFECTIVE JULY 1, 2008] **(a) The legislative**
- 15          **services agency shall prepare legislation for introduction in the**
- 16          **2009 regular session of the general assembly to organize and**
- 17          **correct statutes affected by this act, if necessary.**
- 18          **(b) This SECTION expires December 31, 2009.**

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SENATE MOTION

Madam President: I move that Senator Broden be added as second author of Senate Bill 312.

BOOTS

SENATE MOTION

Madam President: I move that Senator Wyss be added as coauthor of Senate Bill 312.

BOOTS

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government and Elections, to which was referred Senate Bill No. 312, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 9, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 10. IC 36-2-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. ~~(a)~~ The ~~seven (7)~~ ~~member~~ county council elected under this chapter is the county fiscal body **and the county legislative body as provided in IC 36-2-3.7.** The fiscal body shall act in the name of "The \_\_\_\_\_ County Council".

~~(b) Notwithstanding subsection (a), in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the county council has nine (9) members.~~

SECTION 11. IC 36-2-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The ~~fiscal body~~ **county council** shall be elected under IC 3-10-2-13. Except in a county having only single member districts, members elected from districts and at large members, respectively, ~~are to~~ **shall** be elected in alternate, succeeding general elections under ~~section 4~~ of this chapter. In a county having only single member districts, the terms of the members are staggered as was provided by law before September 1, 1980.

(b) The term of office of a member of the ~~fiscal body~~ **county council** is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.



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SECTION 12. IC 36-2-3-4, AS AMENDED BY P.L.230-2005, SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) This subsection does not apply to a county having a population of:

- (1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
- (2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

The county executive shall, by ordinance, divide the county into four (4) contiguous, single-member districts that comply with subsection (d). If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts. One (1) member of the ~~fiscal body~~ **county council** shall be elected by the voters of each of the four (4) districts. ~~Three (3)~~ **Five (5)** at-large members of the ~~fiscal body~~ **county council** shall be elected by the voters of the whole county.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection (d). One (1) member of the ~~fiscal body~~ **county council** shall be elected by the voters of each of these seven (7) single-member districts.

(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The ~~fiscal body~~ **county council** shall divide the county into nine (9) single-member districts that comply with subsection (d). Three (3) of these districts must be contained within each of the three (3) districts established under IC 36-2-2-4(c). One (1) member of the ~~fiscal body~~ **county council** shall be elected by the voters of each of these nine (9) single-member districts.

(d) Single-member districts established under subsection (a), (b), or (c) must:

- (1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) not cross precinct boundary lines;
- (3) contain, as nearly as possible, equal population; and
- (4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(e) A division under subsection (a), (b), or (c) shall be made:

- (1) during the first year after a year in which a federal decennial census is conducted; and

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(2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

SECTION 13. IC 36-2-3-4.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.7. (a) Whenever the county executive or the county fiscal body divides the county into districts under section 4 of this chapter, the county executive or the county ~~fiscal body~~ **council** shall adopt an ordinance.

(b) The county executive or the county ~~fiscal body~~ **council** shall file a copy of an ordinance adopted under subsection (a) with the circuit court clerk.

SECTION 14. IC 36-2-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) To be eligible to serve as a member of the ~~fiscal body~~, **county council**, a person must meet the qualifications prescribed by IC 3-8-1-22.

(b) A member of the ~~fiscal body~~ **county council** must reside within:

(1) the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and

(2) the district from which the member was elected, if applicable.

(c) A member who fails to comply with subsection (b) forfeits the office.

SECTION 15. IC 36-2-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) At its regular meeting required by section 7(b)(1) of this chapter, the ~~fiscal body~~ **county council** shall elect a president and president pro tempore from its members.

(b) The county auditor is the clerk of the ~~fiscal body~~ **county council** and shall:

(1) preserve the ~~fiscal body's~~ **county council's** records in ~~his the~~ **county auditor's** office;

(2) keep an accurate record of the ~~fiscal body's~~ **county council's** proceedings;

(3) record the ayes and nays on each vote appropriating money or fixing the rate of a tax levy; and

(4) record the ayes and nays on other votes when requested to do so by two (2) or more members.

(c) The county sheriff or a county police officer shall attend the meetings of the ~~fiscal body~~, **county council**, if requested by the ~~fiscal body~~, **county council**, and shall execute its orders.

(d) The ~~fiscal body~~ **county council** may employ legal and administrative personnel necessary to assist and advise it in the

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performance of its functions and duties.

SECTION 16. IC 36-2-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The ~~fiscal body~~ **county council** shall hold its meetings in the county seat, in the county auditor's office, or in another location provided by the county executive and approved by the ~~fiscal body~~ **county council**.

(b) The ~~fiscal body~~ **county council**:

- (1) shall hold a regular meeting in January after its election, for the purpose of organization and other business;
- (2) shall hold a regular meeting annually, as prescribed by IC 6-1.1-17, to adopt the county's annual budget and tax rate;
- (3) may hold a special meeting under subsection (c) or (d); and
- (4) in the case of a county subject to IC 36-2-3.5 **before January 1, 2011**, shall hold meetings at a regularly scheduled time each month that does not conflict with the meetings of the county executive.

(c) A special meeting of the ~~fiscal body~~ **county council** may be called:

- (1) by the county auditor or the president of the ~~fiscal body~~ **county council**; or
- (2) by a majority of the members of the ~~fiscal body~~ **county council**.

At least forty-eight (48) hours before the meeting, the auditor, president, or members calling the meeting shall give written notice of the meeting to each member of the ~~fiscal body~~ **county council** and publish, at least one (1) day before the meeting, the notice in accordance with IC 5-3-1-4. This subsection does not apply to a meeting called to deal with an emergency under IC 5-14-1.5-5.

(d) If a court orders the county auditor to make an expenditure of county money for a purpose for which an appropriation has not been made, the auditor shall immediately call an emergency meeting of the ~~fiscal body~~ **county council** to discuss the matter. Notwithstanding subsection (c), the meeting must be held within three (3) working days of the receipt of the order by the auditor, and notice of the meeting day, time, and ~~places~~ **place** is sufficient if:

- (1) given by telephone to the members of the ~~fiscal body~~ **county council**; and
- (2) given according to IC 5-14-1.5.

SECTION 17. IC 36-2-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. A member of the ~~fiscal body~~ **county council** who purchases a bond, order, claim, or demand against the county for less than its face value shall forfeit it to

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the county and may not enforce it by legal action.

SECTION 18. IC 36-2-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. The ~~fiscal body~~ **county council** may:

- (1) expel any member for violation of an official duty;
- (2) declare the seat of any member vacant if ~~he~~ **the member** is unable or fails to perform the duties of ~~his~~ **the** office; and
- (3) adopt its own rules to govern proceedings under this section, but a two-thirds (2/3) vote is required to expel a member or vacate ~~his~~ **the member's** seat.

SECTION 19. IC 36-2-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) The ~~fiscal body~~ **county council** may employ and fix the compensation of an attorney to represent and advise the ~~fiscal body~~ **county council**.

(b) For the purposes of Section 9, Article 2 of the Constitution of the State of Indiana, employment by a county ~~fiscal body~~ **council** as an attorney does not constitute a lucrative office."

Page 11, delete lines 38 through 42.

Delete page 12.

Page 13, delete lines 1 through 38.

Page 14, after line 28, begin a new paragraph and insert:

"SECTION 31. [EFFECTIVE JULY 1, 2008] (a) **Except as provided in subsection (b), this SECTION applies to a county.**

(b) **This SECTION does not apply to the following counties:**

- (1) **A county that has a consolidated city.**
- (2) **A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).**
- (3) **A county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).**

(c) **Notwithstanding any other provision, in a county subject to this SECTION the two (2) at large members of the county council added under IC 36-2-3-4, as amended by this act, shall be elected at the November 2010 general election. The term of office of the members:**

- (1) **is four (4) years; and**
- (2) **begins January 1, 2011.**

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**(d) This SECTION expires July 1, 2012."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 312 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 6, Nays 4.

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SENATE MOTION

Madam President: I move that Senators Young R Michael and Delph be added as coauthors of Engrossed Senate Bill 312.

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SENATE MOTION

Madam President: I move that Senate Bill 312 be amended to read as follows:

Page 1, line 10, delete "after December" and insert ",".

Page 1, line 11, delete "31, 2010,".

Page 3, line 7, delete "(for elections before 2010)." and insert ".".

Page 3, line 8, delete "(as provided in" and insert ", **in the case of a county subject to**".

Page 3, line 9, delete "for elections in 2010 and thereafter)." and insert ".".

Page 4, line 24, delete "(for elections before 2010)." and insert ".".

Page 4, line 25, delete "(as provided in IC 36-2-2.5" and insert ", **in the case of a county subject to IC 36-2-2.5**".

Page 4, delete line 26.

Page 5, line 28, delete "(for elections before 2010)." and insert ".".

Page 5, line 29, delete "(as provided in" and insert ", **in the case of a county subject to**".

Page 5, line 30, delete "for elections in 2010 and thereafter)." and insert ".".

Page 6, line 16, delete "after December 31, 2010," and insert "**in the case of a county subject to IC 36-2-2.5**".

Page 6, line 22, delete "before January 1, 2011,".

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Page 6, line 24, delete "(before".

Page 6, line 25, delete "January 1, 2011)".

Page 6, line 25, delete "(after December 31, 2010);" and insert ";".

Page 6, delete lines 35 through 42.

Page 7, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 7. IC 36-2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies to all counties ~~not~~ **except the following:**

(1) **A county** having a consolidated city.

(2) **A county subject to IC 36-2-2.5.**

SECTION 8. IC 36-2-2.4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

**Chapter 2.4. Local Public Question on County Government**

**Sec. 1. (a) This chapter does not apply to a county having a consolidated city.**

**(b) This subsection applies to a county that is not subject to IC 36-2-3.5. The county election board in a county shall place the following question on the ballot in the county at the 2010 general election:**

"Shall \_\_\_\_\_ (insert the name of the county) County adopt Indiana law so that:

(1) the county executive consists of one (1) person elected by the voters of the county instead of three (3) persons elected by the voters of the county;

(2) the county council consists of nine (9) persons, of whom four (4) persons are elected by voters who reside in a district, five (5) members elected by voters of the county, instead of seven (7) persons, four (4) of whom are elected by voters who reside in a district, three (3) of whom are elected by voters of the county?; and

(3) the county council serves as the county legislative body and the county fiscal body?."

**(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The county election board in a county shall place the following question on the ballot in the county at the 2010 general election:**

"Shall \_\_\_\_\_ (insert the name of the county) County adopt Indiana law so that:

(1) the county executive consists of one (1) person elected by the voters of the county instead of three (3) persons elected by

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the voters of the county; and

(2) the county council consists of nine (9) persons, of whom four (4) persons are elected by voters who reside in a district, five (5) members elected by voters of the county, instead of nine (9) persons, nine (9) of whom are elected by voters who reside in a district?".

(d) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county election board in a county shall place the following question on the ballot in the county at the 2010 general election:

"Shall \_\_\_\_\_ (insert the name of the county) County adopt Indiana law so that:

(1) the county executive consists of one (1) person elected by the voters of the county instead of three (3) persons elected by the voters of the county; and

(2) the county council consists of nine (9) persons, of whom four (4) persons are elected by voters who reside in a district, five (5) members elected by voters of the county, instead of seven (7) persons, seven (7) of whom are elected by voters who reside in a district?".

(e) A public question under this section must be certified in accordance with IC 3-10-9-3 and shall be placed on the ballot in accordance with IC 3-10-9.

(f) The circuit court clerk of a county holding an election under this section shall certify the results determined under IC 3-12-4-9 to each of the following:

- (1) The secretary of state.
- (2) The state board of accounts.
- (3) The department of local government finance.

Sec. 2. If the voters of a county approve a public question under section 1 of this chapter, the following apply:

- (1) The county executive consists of one (1) individual.
- (2) IC 36-2-2.5 applies in the county instead of IC 36-2-2.
- (3) The county may not subsequently be governed by IC 36-2-2.
- (4) The county executive shall be elected at the 2012 general election.
- (5) The term of office of each member of the county executive elected under IC 36-2-2 expires at the end of the day on December 31, 2012.
- (6) The county council consists of nine (9) members, four of

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whom are elected from single member districts, five (5) of whom are elected at-large.

(7) The county is subject to IC 36-2-3.7.

(8) This subdivision applies only to a county described in section 1(c) or 1(d) of this chapter. The term of office of each member of the county council expires at the end of the day on December 31, 2012. The nine (9) members of the county council shall be elected at the 2012 general election. The initial terms of the members shall be as follows:

(A) Two (2) members elected from single-member districts and two (2) members elected at-large shall serve two (2) year terms beginning January 1, 2013, and expiring at the end of the day on December 31, 2014. The successors of the members shall be elected at the 2014 general election and shall serve four (4) year terms.

(B) Two (2) members elected from single-member districts and three (3) members elected at-large shall serve four (4) year terms beginning January 1, 2013, and expiring at the end of the day on December 31, 2016. The successors of the members shall be elected at the 2016 general election and shall serve four (4) year terms.

(9) This subdivision applies only to a county described in section 1(b) of this chapter. The eighth and ninth members of the council shall be elected at the 2012 general election for four (4) year terms.

**Sec. 3. (a) If the voters of a county disapprove a public question, the voters of the county may file a written petition with the circuit court clerk of the county requesting that a local public question applicable to the county under section 1 of this chapter, be placed on the ballot for the next general election. The petition must:**

- (1) be signed by at least five percent (5%) of the voters of the county, as determined by the vote cast in the county for secretary of state at the most recent general election;
- (2) state the public question that applies to the county under section 1 of this chapter; and
- (3) be substantially in the form prescribed by the department of local government finance.

The circuit court clerk shall certify the petition to the county council of the county.

(b) If the requirements in subsection (a) are satisfied, the county election board shall place the local public question on the ballot in the county during the next general election.

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(c) If the voters of the county approve the public question, the following apply:

- (1) The county executive consists of one (1) individual.
- (2) IC 36-2-2.5 applies in the county instead of IC 36-2-2.
- (3) The county may not subsequently be governed by IC 36-2-2.
- (4) The county executive shall be elected at the next general election.
- (5) The term of office of each member of the county executive elected under IC 36-2-2 expires at the end of the day on December 31 following the next general election.
- (6) The county council consists of nine (9) members, four of whom are elected from single member districts, five (5) of whom are elected at-large.
- (7) The county is subject to IC 36-2-3.7.
- (8) This subdivision applies only to a county described in section 1(c) or 1(d) of this chapter. The term of office of each member of the county council expires at the end of the day on December 31 following the next general election. The nine (9) members of the county council shall be elected at the next general election. The initial terms of the members shall be as follows:
  - (A) Two (2) members elected from single member districts and two (2) members elected at-large shall serve two (2) year terms beginning the January 1 following the next general election and expiring at the end of the day on December 31. The successors of the members shall be elected at a general election and shall serve four (4) year terms.
  - (B) Two (2) members elected from single-member districts and three (3) members elected at-large shall serve four (4) year terms beginning the January 1 following the next general election and expiring at the end of the day on December 31. The successors of the members shall be elected at a general election and shall serve four (4) year terms.
- (9) This subdivision applies only to a county described in section 1(b) of this chapter. The eighth and ninth members of the council shall be elected at the next general election for four (4) year terms."

Page 7, delete lines 22 through 24, begin a new paragraph and insert:



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**"Sec. 1. (a) This chapter applies to a county if the voters of the county approve a public question under IC 36-2-2.4.**

**(b) This chapter does not apply to a county having a consolidated city."**

Page 7, line 26, delete "in 2010 and".

Page 7, line 27, delete "thereafter." and insert ".".

Page 7, delete lines 28 through 36.

Page 7, line 37, delete "4." and insert "3."

Page 7, line 42, delete "After December 31, 2010, any" and insert "Any".

Page 8, line 4, after "county" insert "governed by this chapter,".

Page 8, line 6, delete "After December 31, 2010, any" and insert "Any".

Page 8, line 13, delete "5." and insert "4."

Page 9, line 11, delete "6." and insert "5."

Page 9, line 20, delete "7." and insert "6."

Page 9, line 23, delete "8." and insert "7."

Page 10, delete lines 5 through 42, begin a new paragraph and insert:

"SECTION 12. IC 36-2-3-4, AS AMENDED BY P.L.230-2005, SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) This subsection does not apply to a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

**This subsection does not apply to a county that approves a public question under IC 36-2-2.4.** The county executive shall, by ordinance, divide the county into four (4) contiguous, single-member districts that comply with subsection (d). If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts. One (1) member of the ~~fiscal body~~ **county council** shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the fiscal body shall be elected by the voters of the whole county.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) **that does not approve a public question under IC 36-2-2.4.** The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection (d). One (1) member of the ~~fiscal body~~ **county council** shall be elected by the voters of each of these

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seven (7) single-member districts.

(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000) **that does not approve a public question under IC 36-2-2.4.** The ~~fiscal body~~ **county council** shall divide the county into nine (9) single-member districts that comply with subsection (d). Three (3) of these districts must be contained within each of the three (3) districts established under IC 36-2-2-4(c). One (1) member of the ~~fiscal body~~ **county council** shall be elected by the voters of each of these nine (9) single-member districts.

(d) Single-member districts established under subsection (a), (b), or (c) must:

- (1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) not cross precinct boundary lines;
- (3) contain, as nearly as possible, equal population; and
- (4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(e) A division under subsection (a), (b), or (c) shall be made:

- (1) during the first year after a year in which a federal decennial census is conducted; and
- (2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

SECTION 13. IC 36-2-3-4.6 IS ADDED TO THE INDIANA CODE AS NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.6. (a) If a local public question is approved by the voters of a county under IC 36-2-2.4:**

- (1) **this section applies to the county; and**
- (2) **section 4 of this chapter does not apply to the county.**

**(b) The county shall be divided into four (4) single-member districts that comply with subsection (c) by the following:**

- (1) **The county council. If necessary, the county auditor shall call a special meeting of the county council to establish or revise districts.**
- (2) **The county redistricting commission established under IC 36-2-2-4 in the case of a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).**

**One (1) member of the county council shall be elected by the voters**

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of each of the four (4) districts. Five (5) at-large members of the county council shall be elected by the voters of the whole county.

(c) Single-member districts established under subsection (b) must:

- (1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) not cross precinct boundary lines;
- (3) contain, as nearly as possible, equal population; and
- (4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(d) A division under subsection (b) shall be made:

- (1) during the first year after a year in which a federal decennial census is conducted; and
- (2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(e) A division under subsection (b) may be made in any odd-numbered year not described in subsection (d)."

Page 11, delete lines 1 through 8.

Page 13, delete lines 22 through 24, begin a new paragraph and insert:

"SECTION 21. IC 36-2-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) **Except as provided in subsection (b),** this chapter applies to:

- (1) a county having a population of:
  - (A) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
  - (B) more than two hundred thousand (200,000) but less than three hundred thousand (300,000); and
- (2) any other county not having a consolidated city, if both the county executive and the county fiscal body adopt identical ordinances providing for the county to be governed by this chapter beginning on a specified effective date.

(b) **This chapter does not apply to a county subject to IC 36-2-2.5.**"

Page 13, delete lines 29 through 30, begin a new paragraph and insert:

"Sec. 1. (a) **This chapter applies to a county if the voters of the county approve a public question under IC 36-2-2.4.**

(b) **This chapter does not apply to a county having a consolidated city.**"

Page 14, line 34, delete "(before January 1, 2011)".

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Page 14, line 34, delete "(after".  
 Page 14, line 35, delete "December 31, 2010)".  
 Page 14, line 42, delete "(before January 1, 2011)".  
 Page 14, line 42, delete "(after".  
 Page 15, line 1, delete "December 31, 2010)".  
 Page 15, line 9, delete "(before January 1, 2011)".  
 Page 15, line 10, delete "(after December 31, 2010)".  
 Page 15, line 38, delete "(before January 1, 2011)".  
 Page 15, line 39, delete "(before".  
 Page 15, line 40, delete "January 1, 2011)".  
 Page 15, line 40, delete "(after December 31, 2010)." and insert ".".  
 Page 16, delete lines 12 through 40.  
 Renumber all SECTIONS consecutively.  
 (Reference is to SB 312 as printed January 25, 2008.)

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